

DETAILED ACTION

Response to Amendment

1. This is in response to amendment received on 11/28/08. Claims 1-12 are pending, with claims 6-12 withdrawn from consideration. Claims 1-5 are finally rejected below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Knapp (US 5,204,995).

Knapp teaches the following:

1. (CURRENTLY AMENDED) A garment comprising, in combination:
 - a) an adjoined pair of pant legs (figure 1); b) each of said pant legs having an inner surface (14) and an outer surface (16) and including an outer seam and an inner (traditional outer leg seam and inner leg seam: see figure 1); and
 - c) at least one of said pant legs having an elongated aperture (56) located adjacent said outer seam of a pant leg (aperture (56) is located adjacent to outer pant seam).

2. (ORIGINAL) A garment as defined in Claim 1 additionally including:
 - a) at least one ornament (60); b) said ornament comprising an ornament face and a back button (figures 7 and 8), said ornament face being threadedly joined in spaced

relationship to said back button (figures 7 and 8); and

c) said at least one ornament (60) being received at an elongated aperture (56) so that said ornament face lies adjacent the outer surface of a pant leg and said back button lies adjacent the inner surface of said pant leg (see figure 1: with the inner surface shown (reversible pants)).

3. (CURRENTLY AMENDED) A garment as defined in Claim 2 further characterized in that:

a) at least one of said pant legs has a plurality of apertures (see figure 1, identifier 56); and
b) said plurality of apertures is arranged vertically adjacent the outer seam of said leg (see figure 1).

4. (ORIGINAL) A garment as defined in Claim 3 including a plurality of ornaments (see figure 1, identifier 60).

5. (ORIGINAL) A garment as defined in Claim 4 wherein at least one of said ornaments includes an ornament face comprising a brass rivet (figures 7 and 8).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Silver (US 6,968,573).

Silver teaches the following:

1. (CURRENTLY AMENDED) A garment comprising, in combination:
 - a) an adjoined pair of pant legs (figure 2); b) each of said pant legs having an inner surface and an outer surface and including an outer seam and an inner (traditional interior and exterior of pant leg and seam connecting portions 24 to 28: column 2, lines 22-26); and
 - c) at least one of said pant legs having an elongated aperture located adjacent said outer seam of a pant leg (female snap (52) can be in the form of a female buttonhole: see column 3, lines 43-46, which would be elongated apertures).

2. (ORIGINAL) A garment as defined in Claim 1 additionally including:
 - a) at least one ornament (46); b) said ornament comprising an ornament face (46, 37) and a back button (50), said ornament face being threadedly joined in spaced relationship to said back button (see figure 2, identifier 50: column 3, lines 43-46); and
 - c) said at least one ornament (46) being received at an elongated aperture so that said ornament face lies adjacent the outer surface of a pant leg and said back button lies adjacent the inner surface of said pant leg (figures 1 and 2).

Response to Arguments

6. Applicant's arguments filed 11/28/08 have been fully considered but they are not persuasive.

I) Applicant argues that Silver (US 6,968,573) fails to teach an outer seam and an inner seam.

Examiner notes that Silver teaches a stitching connecting the leg portion (28) to the trunks portion (24), creating a seam extending around the entire leg's circumference including the outer portion of a user's leg and an inner portion of a user's leg. There is no structure in the claim requiring certain orientations of the outer and inner seams.

It is the claims that define the claimed invention, and it is claims, not specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices Inc.*, 7 USPQ2d 1064.

II) Applicant argues that Silver fails to teach an elongated aperture located adjacent to the outer seam of the pant leg.

Examiner disagrees, since Silver teaches buttonholes (column 3, lines 37-46) extending along the circumference of the pant leg located adjacent to the seamed connection of the trunk portion (24) to the leg portions (28). The seamed connection creates an outer seam on the pant leg. Therefore, Silver teaches the limitation as claimed.

III) Applicant argues that there was some agreement made with the Attorney in respect to the Knapp reference.

The agreement with regard to the Knapp reference was that the amendment after RCE would not be made final since the amendment overcame how that Knapp reference was applied to reject the claims. However, this did not indicate that the reference could not be applied in a different way to reject the claims.

IV) Applicant argues that Knapp fails to teach the outer seam and inner seam.

The Examiner is using the Knapp outer and inner seam, just as the Applicant is pointing out in their arguments. The outer seam is "O" as the Applicant illustrated and the inner seam is "i" as the applicant has illustrated. The aperture (buttonhole 56) is located on a pant leg (14) adjacent to the outer seam (o). Buttonhole (56) is next to outer seam (14), there is no specific structure in the claim detailing the exact location of the aperture in relation to the outer seam. Therefore, Knapp reads on the limitations as claimed.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alissa L. Hoey/
Primary Examiner, Art Unit 3765